

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

On re Application of: )

BROTHERSTON et al. )

Application No.: 09/745,522 )

Filed: 12/26/2001 )

For: COMMODE CHAIR SEAT )

Examiner:

Group Art Unit:

Allowed:

June 20, 2003

The Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attention: Office of Petitions

**RECEIVED**  
JUN 26 2003  
**GROUP 3600**

**PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW NOTICE OF ABANDONMENT**

Sir:

Applicant respectfully requests the Commissioner to restore the above-identified abandoned application to pending status on the ground that Applicant properly submitted the required Response to Notice to File Missing Parts of Nonprovisional Application, as evidenced by the attached photocopy of the return receipt postcard showing receipt of the Response to the Notice to File Missing Parts of Application Filing Date Granted (PTO-1533)(Small Entity).

**FACTS**

1. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 5, 2001.
2. On April 26, 2001, the Applicant filed the following:
  - (a) a Response to Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533)(Small Entity);
  - (b) A copy of the Notice to File Missing Parts of Nonprovisional Application;
  - (c) An executed Declaration and Power of Attorney for Patent Application; and

(d) A Return Receipt postcard.

Copies of each of these documents are attached as Appendix A.

2. These documents were transmitted to the United States Patent and Trademark Office by way of courier.
3. The Response to Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533)(Small Entity) and the Declaration and Power of Attorney referred to the serial number as 09/745,922, instead of the correct serial number, i.e. 09/745,522. However, the Notice to File Missing Parts of Nonprovisional Application was included with our filing, and identified the correct serial number.
4. Upon checking with your Customer Service Center, apparently our Response and fee transmittal documents have not been applied to either the incorrect serial number 09/745,922 or the correct serial number 09/745,522.

#### **RELIEF REQUESTED**

The Commissioner is respectfully requested to restore the above-identified abandoned application to pending status since the Applicant has properly submitted the Response to the Notice to File Missing Parts of Nonprovisional Application.

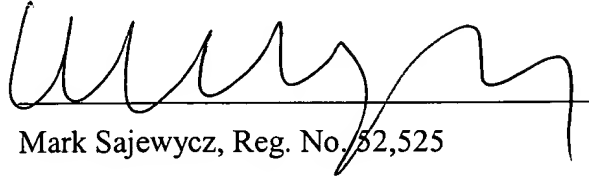
#### **FEE**

The Commissioner is hereby authorized to charge Deposit Account No. 07-1750 for any petition fee which may be due. However, since it is believed that the holding of abandonment is the result of circumstances not attributable to any fault of Applicant or his representatives, it is respectfully suggested that no fee is due.

Applicant's undersigned attorney may be reached in our Toronto office by telephone at 416-

862-5795. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark Sajewycz', written over a horizontal line.

Mark Sajewycz, Reg. No. 52,525

Agent for the Applicant

Gowling Lafleur Henderson LLP  
Commerce Court West, Suite 4900  
Toronto, Ontario M5L 1J3  
Canada

9200/3630 new fee

DAC  
#4  
Put to  
w/d ab  
DW

PTO/SB/21 (05-03)

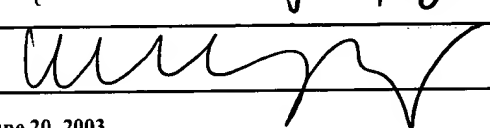
Approved for use through 04/30/2003. OMB 0651-0031  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PIPE  
JUN 23 2003  
PATENT & TRADEMARK OFFICE

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/745,522	
	Filing Date	12/26/2001	
	First Named Inventor	Brotherston	
	Group Art Unit		
	Examiner Name		
Total Number of Pages in This Submission		Attorney Docket Number	K8000102US1

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <b>Petition Under 37 C.F.R. 1.181 to Withdraw Notice of Abandonment Copy of Notice to File Missing Parts of Application Copy of Response to Notice to File Missing Parts of Application and</b>
Remarks		
Executed Declaration and Power of Attorney for Patent Application		

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT	
Firm or Individual name	Mark W. Sajen <sup>26912</sup> Reg No. 52,525
Signature	
Date	June 20, 2003

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JUN 26 2003

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CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the			
Typed or printed name			
Signature		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**Associate Power Of Attorney Or Agent (37 CFR 1.34)  
(For Representation Related To A Patent Application)**

Docket No.  
**K8000102US1**

In Re Application Of:  
**BROTHERSTON ET AL.**

Serial No.  
**09/745,522**

Filing Date  
**12/26/2001**

Examiner

Group Art Unit

Invention:

**COMMODE CHAIR SEAT**

**TO THE COMMISSIONER FOR PATENTS:**

Please recognize the following as ☒ Associate Attorney ☐ Associate Agent in this application.

Name: **Mark W. Sajewycz**

Reg. No.: **52,525**

Address: **Gowling Lafleur Henderson LLP  
Commerce Court West, Suite 4900  
Toronto, Ontario  
M5L 1J3**

Tel. No. **416-862-7525**

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**GROUP 3600**



*Signature of Principal Attorney or Agent of Record*

**Arne I. Fors, Reg. No. 20,775  
Gowling Lafleur Henderson LLP  
Commerce Court West, Suite 4900  
Toronto, Ontario M5L 1J3  
Canada**

*Registration Number & Address of Principal Attorney or Agent of Record*

Dated: **June 20, 2003**

I certify that this document is being deposited on  
with the U.S. Postal Service as first  
class mail under 37 C.F.R. 1.8 and is addressed to the  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA  
22313-1450.

*Signature of Person Mailing Correspondence*

*Typed or Printed Name of Person Mailing Correspondence*



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/745,522	12/26/2000	Ian Brotherston	K8000102US1

Arne I. Fors  
 Gowling Lafleur Henderson LLP  
 Suite 1020  
 50 Queen Street North  
 Kitchener, ON N2H 6M2  
 CANADA



CONFIRMATION NO. 1784

ABANDONMENT/TERMINATION  
LETTER

\*OC000000010163686\*

Date Mailed: 06/02/2003

## NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 02/05/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

A copy of this notice **MUST** be returned with the reply.

Customer Service Center  
 Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

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GROUP 3600

APPENDIX A



U.S. Patent Application No. 09/745,922  
Applicant: BROTHURSTON, Ian et al.  
Our File: K8000102US1  
Title: Commode Chair Seat  
Filing response to Notice to File Missing Parts  
Due Date: **MAY 5, 2001**  
Date: April 26, 2001  
Timekeeper: M. Sajewycz 1616  
(Broda Enterprises)

er No. ....

CARD AND RETURN  
PATENT OFFICE OF

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**APR 27 2001**

*EMI 7422*

ENDERSON LLP

TECH CENTER 1600/2900

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**GROUP 3600**



**GOWLINGS**

Suite 4900  
Commerce Court West  
Toronto, Ontario  
Canada M5L 1J3  
Telephone (416) 862-7525  
Facsimile (416) 862-7661  
www.gowlings.com

April 26, 2001

Mark W. Sajewycz  
Direct (416) 862-5795  
Assistant (416) 862-4658  
mark.sajewycz@gowlings.com

**VIA COURIER**

Rhea Troffkin  
Berger & Altman  
Crystal Park Two  
2121 Crystal Drive, Suite 703D  
Arlington, VA 22202  
USA

Dear Rhea:

Re: U.S. Patent Application No. 09/745,922  
Applicant: BROTHERSTON, Ian et al.  
Our File: K8000102US1

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JUN 26 2003  
**GROUP 3600**

Please file the following documents with the United States Patent Office as soon as possible, and before the **MAY 5, 2001** deadline:

- (i) Response to Notice to File Missing Parts;
- (ii) Notice to File Missing Parts of Nonprovisional Application;
- (iii) Declaration and Power of Attorney For Patent Application;
- (iv) Return acknowledgement card.

If you have any questions, please do not hesitate to contact the undersigned.

Yours very truly,

**GOWLING LAFLEUR HENDERSON LLP**

Mark W. Sajewycz, LL.B., P.Eng.

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Encls.

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## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/745,522	12/26/2000	Ian Brotherston	K8000102US1

CONFIRMATION NO. 1784

## FORMALITIES LETTER



Arne I. Fors  
Gowling Lafleur Henderson LLP  
Suite 1020  
50 Queen Street North  
Kitchener, ON N2H 6M2  
CANADA

Date Mailed: 02/05/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 65.

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JUN 26 2003

**GROUP 3600**

*A copy of this notice MUST be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

**Response To Notice To File Missing Parts Of Application  
Filing Date Granted (PTO-1533)(Small Entity)**

Docket No.  
**K8000102US1**

In Re Application Of:

**Brotherston, Ian and Truelove, Michael**

Serial No.  
**09/745,922**

Filing Date  
**December 26, 2000**

Examiner

Group Art Unit

Invention:

**COMMODE CHAIR SEAT**

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**JUN 26 2003**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

**GROUP 3600**

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on  
02/05/2001  
Date

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). **(REQUIRED)**
- ☐ An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date.
- ☐ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☒ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☐ \_\_\_\_\_ verified small entity declaration(s)
  - ☐ is/are attached.
  - ☐ was/were filed on \_\_\_\_\_
- ☐ A separate request for refund.
- ☐ Other (list):

**Response To Notice To File Missing Parts Of Application  
Filing Date Granted (PTO-1533) (Small Entity)**

Docket No.  
**K8000102US1**

In Re Application Of:

**Brotherston, Ian and Truelove, Michael**

Serial No.  
**09/745,922**

Filing Date  
**December 26, 2000**

Examiner

Group Art Unit

Invention:

**COMMODE CHAIR SEAT**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Attention: Manager, Application Branch

The fee of **\$120** is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **07-1750**  
A duplicate copy of this sheet is enclosed.
- ☐ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **07-1750**  
A duplicate copy of this sheet is enclosed.

Dated:

\_\_\_\_\_  
*Signature*

**Arne I. Fors, Registration No. 20,775**

I certify that this document and fee is being deposited on \_\_\_\_\_ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

\_\_\_\_\_  
*Signature of Person Mailing Correspondence*

\_\_\_\_\_  
*Typed or Printed Name of Person Mailing Correspondence*

CC: